

# **EXHIBIT 3**

## **PUBLIC REDACTED VERSION**

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Page 1

1     \*\* H I G H L Y     C O N F I D E N T I A L \*\*

2     UNITED STATES DISTRICT COURT

3     FOR THE NORTHERN DISTRICT OF CALIFORNIA

4     SAN FRANCISCO DIVISION

5     Case No. 3:21-md-02981-JD

6     -----X

7     IN RE GOOGLE PLAY STORE

8     ANTITRUST LITIGATION

9     THIS DOCUMENT RELATES TO:

10    Epic Games Inc. v. Google LLC, et al.,

11    Case No: 3:20-cv-05671-JD

12    In re Google Play Consumer

13    Antitrust Litigation,

14    Case No: 3:20-cv-05761-JD

15    In re Google Play Developer

16    Antitrust Litigation,

17    Case No: 3:20-cv-05792-JD

18    State of Utah, et al.,

19    v. Google LLC, et al.,

20    Case No: 3:21-cv-05227-JD

21    -----X

22                   February 10, 2022

23                   9:04 a.m.

24                   Videotaped Deposition of JAMIE

25    ROSENBERG, taken by Plaintiffs, pursuant to

Notice, held via Zoom videoconference,

before Todd DeSimone, a Registered

Professional Reporter and Notary Public.

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1 ALSO PRESENT:

2 JEREMY JACOBSON, Law Clerk, Cravath

3 KATE SMITH, ESQ., Google

4 STEPHEN KENT, Videographer

5 PAUL RAFFERTY, Veritext Concierge Tech

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1 THE VIDEOGRAPHER: Good morning.  
2 We are going on the record at 9:04 a.m.  
3 Pacific on February 10th, 2022.

4 Please mute your audio input if  
5 you are not a speaking party as your  
6 microphones are sensitive and can pick up  
7 whispering and background noise. Please  
8 turn off all cell phones or place them away  
9 from your computer as they can interfere  
10 with the deposition audio. Audio and video  
11 recording will continue to take place  
12 unless all parties agree to go off the  
13 record.

14 This is media unit one of the  
15 video-recorded deposition of Jamie  
16 Rosenberg in the matter of In Re Google  
17 Play Antitrust Litigation, filed in the  
18 United States District Court for the  
19 Northern District of California, San  
20 Francisco Division, case number  
21 3:21-MD-02981-JD. This deposition is being  
22 held via videoconference with the witness  
23 located in California.

24 My name is Stephen Kent from  
25 the firm Veritext Legal Solutions and I am

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1 the videographer. The court reporter is  
2 Todd DeSimone also from Veritext Legal  
3 Solutions. I'm not authorized to  
4 administer an oath, I'm not related to any  
5 party in this action, nor am I financially  
6 interested in the outcome.

7 All appearances will appear on  
8 the stenographic record. Will the court  
9 reporter please swear in the witness.

10 \* \* \*

11 J A M I E R O S E N B E R G,  
12 called as a witness, having been first duly  
13 sworn, was examined and testified  
14 as follows:

15 EXAMINATION BY MS. GIULIANELLI:

16 Q. Good morning, Mr. Rosenberg.  
17 My name is Karma Giulianelli and I will be  
18 asking you questions today on behalf of the  
19 consumer class.

20 A. Good morning.

21 Q. Good morning. What is your  
22 name, for the record?

23 A. My name is Jamie Rosenberg.

24 Q. Is there anything that would  
25 interfere with your memory here today?

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1 Play Store, right?

2 A. Yes.

3 Q. And it's true that the early  
4 rev share agreements for the Play Store  
5 were meant to incentivize carriers to  
6 prioritize Play, or then Android  
7 Marketplace, over other stores, correct?

8 MR. POMERANTZ: I object to  
9 form.

10 A. I don't know. I don't recall  
11 what the terms of those agreements were,  
12 just that, you know, part of the spirit of  
13 this was more about promoting Android  
14 itself and getting more engagement on  
15 Android as an ecosystem.

16 Q. And what is, within the context  
17 of this slide here, what is a walled  
18 garden?

19 A. In the context of that time  
20 period, the 2008 to two thousand whatever  
21 it would have been, I think some of the  
22 other -- some of the other smartphone  
23 platforms that were out there, other  
24 options for carriers, or if you think about  
25 WAP services, it was a very, you know, it



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1 was a highly fragmented ecosystem. It  
2 wasn't even an ecosystem, it was basically  
3 kind of, you know, any major OEM or carrier  
4 was designing some sort of a -- some sort  
5 of a product approach.

6 What we were trying to pitch is  
7 let's create this as like an ecosystem  
8 where we have a platform that has a single  
9 story to developers in terms of developing  
10 for the platform and then make the scale of  
11 that available to all developers. That was  
12 the vision of Android as an open ecosystem  
13 and that we believed doing it that way  
14 would ultimately get much more engagement  
15 and innovation from developers because they  
16 would be able to develop once and reach a  
17 massive scale audience, if we pulled it  
18 off. And that time frame it wasn't certain  
19 that we were going to pull it off.

20 Q. One thing that the carriers  
21 were doing at this point in time was  
22 starting their own app stores, correct?

23 A. Well, a lot of them had app  
24 stores on other platforms. If they had  
25 Symbian phones or Nokia phones, if they

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1       were, you know, WAP or Java or BREW, they  
2       were involved in some form in that.

3           Q.       And did some of them have app  
4       stores on the Android platform, on the  
5       Android, Google-compatible Android as well?

6           A.       Yes, and some of them still do.

7           Q.       At that point in time were some  
8       of the carriers reserving carrier billing  
9       for their own stores as well?

10          A.       That I don't -- I don't know or  
11       I don't recall. We were -- we were very  
12       interested in carrier billing. We thought  
13       it was a very helpful way for users to pay  
14       for -- pay for things on their phone.  
15       Users had a preexisting relationship with  
16       the carrier and, if done right in the  
17       product execution, it could be good for  
18       users and good for developers.

19                 So we were interested in  
20       signing up as many carriers as possible to  
21       integrate our Play billing system with  
22       their billing system, and we have done that  
23       all over the world.

24          Q.       Google gave carriers rev share  
25       from the Play Store in order to

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1       disincentivize them from pursuing their own  
2       app stores, right?

3             A.       I don't know that I would agree  
4       with that. We certainly wanted their  
5       partnership in making our app store  
6       successful.

7             Q.       You wanted their partnership in  
8       making your app store the primary store,  
9       correct?

10            A.       We had a vision of creating an  
11       app store that would serve the whole  
12       ecosystem, that's the pitch we made to  
13       them, that's what we told them we were  
14       investing in, and that that -- we felt that  
15       that was fundamental to making Android as a  
16       platform successful. So, you know, while  
17       many of them continued to have their own  
18       stores, and some still do, we wanted to  
19       find ways to partner with them on our store  
20       as well.

21            Q.       You saw carrier app stores as  
22       threatening your vision of creating a  
23       single app store that would serve the whole  
24       ecosystem, right?

25            A.       We felt -- I wouldn't -- I

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1 wouldn't agree with that. I would say that  
2 we felt that having -- having an app store  
3 on Android that was consistently available  
4 on any Android phone, no matter the  
5 carrier, no matter the OEM, was really  
6 important. That didn't necessarily  
7 preclude, you know, carriers or OEMs from  
8 also investing in their own app stores, but  
9 we thought it was going to be very  
10 important to the advancement of Android to  
11 have, you know, one place where all the  
12 apps could be available to all the users.

13 Q. Have you ever said in words or  
14 substance to the effect that Google gave  
15 carriers rev share on Play in order to  
16 disincentivize them from building their own  
17 stores?

18 A. I don't -- I don't recall  
19 having said that.

20 Q. Look at, please, Exhibit 280,  
21 which is an exhibit that was marked before  
22 and it should be at the top here.

23 Is Exhibit 280 a -- well,

24 Exhibit 280 is a [REDACTED] [REDACTED] [REDACTED]

25 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

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1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
2 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
3 A. I don't remember. I would have  
4 to look at the document to refresh my  
5 memory.

6 Q. Do you remember being involved  
7 in something called [REDACTED] [REDACTED]?

8 A. I remember [REDACTED] [REDACTED] as a  
9 code name.

10 Q. Were you involved in something  
11 with the code name [REDACTED] [REDACTED]?

12 A. I would have been in  
13 discussions about it. I don't think I  
14 created this document.

15 Q. And I'm just going to ask you  
16 quickly to see if this refreshes your  
17 recollection, on the first slide there --  
18 well, were you a Play lead at that time?

19 A. Yes.

20 Q. And I'm actually going to ask  
21 you about the slide that ends in 567, and  
22 the slide that ends in 567 is entitled

23 [REDACTED] [REDACTED] [REDACTED] [REDACTED], and the  
24 second to the last bullet [REDACTED] [REDACTED] [REDACTED]

25 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

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1 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
2 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
3 Q. And this second to last bullet  
4 says [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
5 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
6 [REDACTED] [REDACTED] [REDACTED]

7 Does that refresh your  
8 recollection that Google cut carriers in to  
9 Play rev share in order to disincentivize  
10 them from building their own stores?

11 A. You know, the way I would  
12 characterize it is, you know, carriers for  
13 the most part, they wanted to know the apps  
14 would be there, you know, that they had  
15 core businesses which were in phone  
16 service, network service, subscriber  
17 management, like that was -- that was how  
18 they built their business.

19 In the smartphone world, you  
20 know, a lot of them had been kind of  
21 spending a lot to try to make an app  
22 ecosystem work in the context of the small  
23 number of users they had, and, you know,  
24 when we told them look, we will bring -- we  
25 will manage the whole developer ecosystem,

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1 we will bring all the apps, we will make  
2 sure the functionality is there, you know,  
3 for a lot of them that was -- that was  
4 helpful, and the economics were also to  
5 make them feel good about the fact that,  
6 you know, in these early days of Android  
7 that we were -- we were considering them  
8 partners in this.

9 And so, you know, the way that  
10 carriers were looking at this is in a lot  
11 of cases like this, this wasn't a core  
12 business for them, it might have been  
13 making money in some way, but what they  
14 really wanted was to make sure that they  
15 were, you know, putting compelling devices  
16 in front of users that would encourage data  
17 usage, you know, keep subscribers on their  
18 network, all of these things.

19 You know, I think over time  
20 most carriers viewed this as a helpful  
21 service we were providing on behalf of the  
22 ecosystem. In the early days, you know,  
23 there was -- there was economics I think to  
24 help smooth that transition for them, but  
25 it was -- I think it was a larger thing

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1 that they were in search of, can we get all  
2 the apps there, can we have the best  
3 innovation and functionality available on  
4 these devices, particularly as, you know,  
5 Apple and iPhone were emerging with their  
6 strategy, with their app store.

7 Q. And in order for an app store  
8 to succeed, it really needs users across  
9 multiple carriers and OEMs; is that right?

10 A. I mean, it depends on -- it  
11 depends on the ambition of the app store,  
12 it depends on the effort of developers to  
13 create an app for the platform, the number  
14 of users they need to be motivated to do  
15 that.

16 But it was, you know, it was  
17 part of our pitch to this ecosystem that we  
18 were building that, you know, we would be  
19 making investments to recruit a developer  
20 ecosystem globally and provide the tools to  
21 those developers to build great things and  
22 provide the means for those developers to  
23 distribute those things as far and wide as  
24 possible.

25 Q. And your pitch to the carriers